

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 CHRISTOPHER E. KRUEGER
Senior Assistant Attorney General
3 DOUGLAS J. WOODS
Supervising Deputy Attorney General
4 JACK WOODSIDE, State Bar No. 189748
Deputy Attorney General
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 324-5138
7 Fax: (916) 324-8835
Email: Jack.Woodside@doj.ca.gov

8 Attorneys for Defendant State of California
9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 **MICHAEL DUNN,**

14 Plaintiff,

15 v.

16 **STATE OF CALIFORNIA,**

17 Defendant.
18

Case No: 3:07-CV-04267 EMC

**EX PARTE APPLICATION TO
CONTINUE CASE MANAGEMENT
CONFERENCE HEARING
SCHEDULED FOR NOVEMBER 28,
2007; DECLARATION OF JACK
WOODSIDE**

Hearing: November 28, 2007
Time: 1:30 p.m.
Courtroom: C-15th Fl.
Judge: The Honorable
Edward M. Chen

21 Pursuant to rule 16-2(d) of the Civil Local Rules for the Northern District, defendant
22 State of California ("State") submits this Application requesting this Court to continue the initial
23 Case Management Conference from November 28, 2007, to January 16, 2008. The State seeks
24 this continuance due to the fact that the hearing on its Motion to Dismiss is currently scheduled
25 for November 21, 2007. Depending on the Court's Decision with respect to the Motion, there
26 may be no need for a Case Management Conference in this matter. Therefore, before the parties
27 expend significant time and resources preparing for the Case Management Conference, it would
28 be beneficial to know the outcome of the State's Motion.

**EX PARTE APPLICATION TO CONTINUE CASE MANAGEMENT
CONFERENCE HEARING ON 11/28/07**

Dunn, Michael v. State of California
3:07-CV-04267 EMC

As mentioned, the State seeks to continue the date of the Case Management Conference to January 16, 2008. Additionally, the State respectfully requests the Court to further Order the event/Case Schedule-ADR Multi-Option Program, for the following:

Date	Event	Governing Rule
12/26/07	Last day to: <ul style="list-style-type: none"> meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan file Joint ADR Certification with Stipulation to ADR process or Notice of Need for ADR Phone Conference 	<u>FRCivP 26(f) & ADR L.R. 3-5</u> <u>Civil L.R. 16-8</u>
1/9/08	Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case management Statement (also available at http://www.cand.uscourts.gov)	<u>FRCivP 26(a) (1)</u> <u>Civil L.R. 16-9</u>
1/16/08	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom C, 15th Floor, SF at 1:30 P.M.	<u>Civil L.R. 16-10</u>

Counsel for the State conferred with plaintiff Michael Dunn in an attempt to reach an agreement with respect to a stipulated continuance. Plaintiff opposed and indicated that his preference was to have the Case Management Conference scheduled on the same day as the hearing on the State's Motion to Dismiss.

This Application is accompanied by the supporting declaration of Deputy Attorney General Jack Woodside.

///

///

///

///

///

///

///

///

1 Dated: October 18, 2007

2 Respectfully submitted,

3 EDMUND G. BROWN JR.
Attorney General of the State of California

4 CHRISTOPHER E. KRUEGER
Senior Assistant Attorney General

5 DOUGLAS J. WOODS
Supervising Deputy Attorney General

6 /S/ Jack Woodside

7 JACK WOODSIDE
8 Deputy Attorney General
9 Attorneys for Defendant

DECLARATION OF JACK WOODSIDE

I, Jack Woodside, hereby declare:

1. I am an attorney licensed to practice before all of the courts in the State of California and am a Deputy Attorney General with the Office of the Attorney General, Department of Justice, counsel for defendant State of California ("State").

2. On October 5, 2007, on behalf of the State, I filed a Motion to Dismiss plaintiff Michael Dunn's ("Dunn") complaint on the grounds that included this Court's lacks of jurisdiction due to Dunn's failure to demonstrate Article III standing; the State's immunity from suit under the Eleventh Amendment; and, the complaint's failure to state a viable claim against the State. The hearing date on the Motion is scheduled for November 21, 2007.

3. The initial Case Management Conference in this matter is scheduled for November 28, 2007. This will require the parties to complete certain obligations imposed by the Federal Rules of Civil Procedure and the Case Management Conference Order prior to the date of the hearing on the Motion to Dismiss. Depending on the outcome of the State's Motion, a Case Management Conference may not be necessary in this matter. Obtaining the Court's Decision prior to taking these required actions might potentially save significant time and resources for both parties.

4. On Wednesday, October 17, 2007, I spoke with Dunn to determine whether he would stipulate to a continuance of the initial Case Management Conference from November 28, 2007, to January 16, 2008, in light of the pending hearing on the State's Motion to Dismiss. Dunn indicated that he would not stipulate to the continuance and preferred the Case Management Conference to be scheduled on the same day as the hearing for the Motion to Dismiss. Because no agreement was reached, I advised Dunn that I would file an ex parte application to continue the Case Management Conference date to January 17, 2008.

///

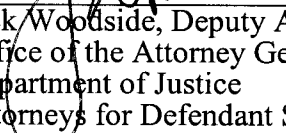
///

///

///

1 I declare under penalty of perjury according to the laws of the state of California that
2 the foregoing is true and correct and if called to testify to said foregoing matters, could
3 competently do so. Executed in Sacramento, California.

4 Dated: October 18, 2007

5 
6 Jack Woodside, Deputy Attorney General
7 Office of the Attorney General,
8 Department of Justice
9 Attorneys for Defendant State of California
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Dunn, Michael v. State of California**
United States District Court, Northern District of California,
Case No: 3:07-CV-04267 EMC

I declare:

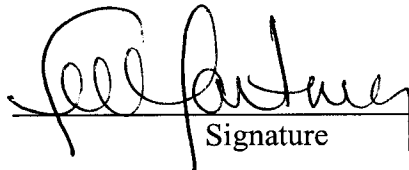
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On October 18, 2007, I served the attached **EX PARTE APPLICATION TO CONTINUE CASE MANAGEMENT CONFERENCE HEARING SCHEDULED FOR NOVEMBER 28, 2007; DECLARATION OF JACK WOODSIDE; [PROPOSED] ORDER CONTINUING CASE MANAGEMENT CONFERENCE HEARING**; by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Michael Dunn
P.O. Box 1468
Laytonville, CA 95454

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 18, 2007, at Sacramento, California.

Christine A. McCartney
Declarant



Signature